

E-mail set regarding discovery request by James Sumpter and related letter by DPH to Judge Drain [ref: Docket # 21534 and Docket # 21551]

Subject: Re: Recoupment Motion, Docket # 21534
From: james Sumpter <jsump@ieee.org>
Date: Wed, 24 Aug 2011 22:55:52 -0400
To: "Tullson, Carl T" <Carl.Tullson@skadden.com>
CC: ron.meisler@skadden.com, john.lyons@skadden.com,
Louis.Chiappetta@skadden.com, Al.Hogan@skadden.com
BCC: james sumpter <jsump@ieee.org>

Dear Mr. Tullson:

I have attached a letter to this e-mail, which pertains to my recent recoupment motion (Docket # 21534). I am requesting information that is necessary to determine the correct value of the recoupment.

By the way, I continue to have trouble sending e-mails to Mr. Butler.

Thanks for your assistance.

James B. Sumpter

21169 Westbay Circle
Noblesville, IN 46062
August 24, 2011

Mr. Carl T. Tullson
Associate, Corporate Restructuring
Skadden, Arps, Slate, Meagher & Flom LLP
155 North Wacker Drive
Chicago, IL 60606-1720

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- Name of Disabled Salaried Retiree (or identifier)
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In addition, for each affected Salaried Retiree please provide the following:

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It would be helpful if you provided the information for each category in an EXCEL spread sheet. Also, please provide this information at the earliest possible date, but no later than 15-SEP-2011.

My contact information follows:

Address: 21169 Westbay Circle
Noblesville, IN 46062

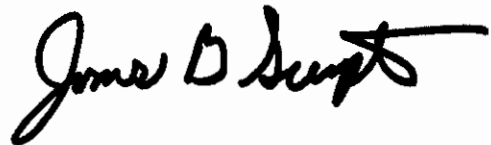
Telephone: (317) 877-0736

Facsimile: (317) 877-1070

E-mail jsump@ieee.org

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "James B. Sumpter", with a stylized, cursive script.

James B. Sumpter

Subject: DPH Holdings Corp -- Motion and Request of James Sumpter
From: "Chiappetta, Louis S" <Louis.Chiappetta@skadden.com>
Date: Fri, 26 Aug 2011 10:23:40 -0400
To: "rdd.chambers@nysb.uscourts.gov" <rdd.chambers@nysb.uscourts.gov>
CC: "Tullson, Carl T" <Carl.Tullson@skadden.com>, "Lyons, John K" <John.Lyons@skadden.com>, "Jsump@ieee.org" <Jsump@ieee.org>

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Louis Chiappetta

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Subject: Re: DPH Holdings Corp -- Letter by Louis.Chiappetta@skadden.com
From: james Sumpter <jsump@ieee.org>
Date: Sun, 28 Aug 2011 22:59:53 -0400
To: "rdd.chambers@nysb.uscourts.gov" <rdd.chambers@nysb.uscourts.gov>
CC: "Chiappetta, Louis S" <Louis.Chiappetta@skadden.com>, "Tullson, Carl T" <Carl.Tullson@skadden.com>, "Lyons, John K" <John.Lyons@skadden.com>
BCC: james sumpter <jsump@ieee.org>

Note: A PDF version of this letter is attached to this email.

21169 Westbay Circle
Noblesville, IN 46062
August 29, 2011

The Honorable Robert D. Drain
United States Bankruptcy Court
For the Southern District of New York
300 Quarropas Street

Dear Judge Drain:

I am writing regarding the e-mail (26-AUG-11) written to you by Mr. Louis Chiappetta, of Skadden, Arps, Slate, Meagher & Flom LLP. Mr. Chiappetta wrote you asking for a sua sponte dismissal of my recently filed Recoupment Motion (Docket # 21534).

I have no choice but to take Mr. Chiappetta's request seriously. Even though it is hollow and absent any tangible justification.

It is also important to note that Mr. Chiappetta has been careless with the facts. I have not filed four motions requesting "damages" – an imprecise term, as applied by Mr. Chiappetta. I have authored eight items, which appear on the debtor's Court Docket. They are:

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(Which was rejected)

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Docket # 18371 Affidavit of Service re: [Docket No. 18366]

Docket # 18367 Motion to Shorten Notice

Docket # 18366 Expedited Motion to Enforce COBRA Benefits

Docket # 14898 Objection to Motion to Terminate OPEB Benefits [re: Docket No.
14705]

None of these items was trivial or frivolous. Among the items on the list, only two motions, including my pending Recoupment Motion, have made "financial claims" – referred to as "damages" by Mr. Chiappetta.

Specifically, in regards to the Recoupment Motion; Mr. Chiappetta's characterization "without merit" is inaccurate and unsubstantiated. I believe that you will find that this motion is well researched, well crafted and that it is clearly based on long established legal practice and numerous precedents. In addition, as you will note, Mr. Chiappetta offered no legal basis for his assertion.

Mr. Chiappetta is correct on one point. I did send "Skadden" a letter requesting information that is essential to establishing the proper value of the requested recoupment. In sending the information request, I was following local bankruptcy rule 7007-1(a) regarding discovery, which requires a good faith effort by the Movant to resolve the applicable issues by agreement with the opposing party.

As for my status as a representative of Delphi Salaried Retirees, it is the same as it was when I filed the COBRA Motion and the Request for Stay Motion. My status was not an issue then and no credible reason was given why it should be an issue now.

I believe the Recoupment Motion is compelling and in itself answers any question regarding its validity; and if the debtor refuses to respond, it will be at its own peril. It's also not clear why Mr. Chiappetta would ask the court to require my personal appearance other than to exploit my health limitations.

Therefore, Your Honor, I respectfully request that you deny Mr. Chiappetta's attempt to derail or delay a legitimate motion, which has been properly filed in a timely manner.

Sincerely,



James B. Sumpter, pro se

Subject: Re: DPH Holdings Corp -- Motion and Request of James Sumpter
From: judge_drain@nysb.uscourts.gov
Date: Mon, 29 Aug 2011 10:49:23 -0400
To: "Chiappetta, Louis S" <Louis.Chiappetta@skadden.com>
CC: "Tullson, Carl T" <Carl.Tullson@skadden.com>, "Lyons, John K" <John.Lyons@skadden.com>, "Jsump@ieee.org" <Jsump@ieee.org>, "rdd.chambers@nysb.uscourts.gov" <rdd.chambers@nysb.uscourts.gov>, Dorothy_Li@nysb.uscourts.gov

Dear Mr. Chiapetta:

I have reviewed Mr. Sumpter's motion, attached below, as well as your August 26, 2011 letter, also attached below. I am not going to rule sua sponte on Mr. Sumpter's motion. However, the Reorganized Debtors may seek to dismiss the motion under Rule 7012, the Court having incorporated the Part 7 rules in this contested matter, with a hearing date of September 22, 2011. If that date is inconvenient for either party, either party may seek an adjournment by contacting my Courtroom Deputy, Ms. Li. Pending my ruling on such request, there shall be no discovery in connection with Mr. Sumpter's motion.

Very truly yours

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Date: 08/26/2011 10:24 AM
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(See attached file: James Sumpter Recoupment Motion (Docket No 21534) 8-22-2011.pdf) (See attached file: James Sumpter August 24 Letter Request.pdf)

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